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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,528	11/06/2003	Jean-Michel Cazenave	0503-1006-1	7365

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EXAMINER

LEWIS, AARON J

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/701,528

Applicant(s)

CAZENAVE ET AL.

Examiner

AARON J. LEWIS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta et al. ('728) in view of Hamlin ('119).

As to claim 1, Gupta et al. disclose a process for the distribution of air enriched in oxygen to the passengers of an aircraft, in which there is supplied to the passengers a first fraction of air enriched in oxygen from an independent source (24), during a phase of descent (col.11, lines 50-53) of the aircraft between a cruising altitude and a re-routing altitude, and there is produced, in an onboard separator, a second fraction of air enriched in oxygen (22), which is delivered to the passengers at least during a substantially stabilized phase of the flight of the aircraft, taking place substantially [during] the re-routing altitude.

It is noted that one of ordinary skill would recognize an OBOGS as including a separator for the purpose of concentrating oxygen from a plurality of supplied gases; however, inasmuch as Gupta et al. do not expressly disclose a separator and to the extent, if any, that Gupta et al. may lack a separator, resort is had to Hamlin which teaches the use of an onboard separator as part of an OBOGS for delivering oxygen enriched breathable gas to passengers (col.4, lines 54-56).

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It would have been obvious to modify the OBOGS of Gupta et al. to include the onboard separator of Hamlin because it would have provided a means for concentrating oxygen from a plurality of supplied gases from a variety of sources as taught by Hamlin.

As to claims 2 and 3, Gupta et al. disclose the engagement of OBOGS above 9,000 feet (col.11, lines 11-18). An altitude of 5,500-8,000 meters is approximately 16,500-24,000 feet which is consistent with the activation of OBOGS in Gupta et al. (col.11, lines 24-31).

As to claim 4, Hamlin teaches that OBOGS delivers oxygen content of 55-60% and Gupta et al. disclose the working pressure for OBOGS to be above 10psig, which is within the claimed range.

As to claim 5, Hamlin teaches that the second fraction of air is produced in a molecular sieve concentrator (col.4, lines 54-56).

As to claim 6, Gupta et al. disclose that the independent source (24) contains oxygen at 100%.

As to claims 7 and 8, while Gupta et al. disclose the supply of oxygen from the independent source until depleted (col.11, line 53), one of ordinary skill would recognize the need to stop the supply of pure oxygen from source (24) after reaching an altitude at which passengers no longer need pure oxygen and could suffer oxygen toxicity as a result of being supplied pure oxygen during periods of time when it is not necessary.

Conclusion

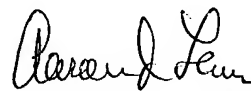
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3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of the art is cited to show relevant installations for the distribution of air enriched oxygen to passengers of an aircraft.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON J. LEWIS whose telephone number is (703) 308-0716. The examiner can normally be reached on 9:30AM-6:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HENRY A. BENNETT can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AARON J. LEWIS
Primary Examiner
Art Unit 3743

Aaron J. Lewis
June 27, 2004